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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Joe Hand Promotions Incorporated,
Plaintiff,
v.
ECM Enterprises LLC, et al.,
Defendants.

No. CV-24-00427-PHX-KML

ORDER

Plaintiff Joe Hand Promotions Inc. seeks default judgment. (Doc. 21.) According to that motion, the amended complaint filed on May 30, 2023, “charged the Defendants with a violation of Section 705 of the Federal Communications Act of 1934, as amended, 47 U.S.C. §§ 553 and 605.” (Doc. 21-1 at 2.) The amended complaint, however, asserts a single claim for copyright infringement “in violation of 17 U.S.C. §§ 106 and 501.” (Doc. 6 at 6.) The Copyright Act found in Title 17 is not the same as the Communications Act found in Title 47. *See Joe Hand Promotions, Inc. v. Maupin*, No. 215CV06355ADSAKT, 2018 WL 2417840, at *8 (E.D.N.Y. May 25, 2018) (noting “the Copyright Act and the Communications Act . . . vindicate[] separate rights”). And the court cannot grant default judgment on claims not alleged in the operative complaint. *See Cripps v. Life Ins. Co. of N. Am.*, 980 F.2d 1261, 1267 (9th Cir. 1992) (“[N]ecessary facts not contained in the pleadings, and claims which are legally insufficient, are not established by default.”).

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2 **IT IS ORDERED** the Motion for Default Judgment (Doc. 21) is **DENIED**. Plaintiff
3 shall file a renewed motion for default judgment no later than **December 27, 2024**. Failure
4 to file a motion for default judgment will result in the dismissal of this suit for failure to
5 prosecute.

6 Dated this 18th day of December, 2024.

Krisia M. Lee

**Honorable Krissa M. Lanham
United States District Judge**